

B<sup>9</sup> 92. (Once amended) The fluid of claim 90 wherein the member is an organic salt and is present at about 0.1% to about 10% by weight.

B<sup>10</sup> 96. (Once amended) The fluid of claim 90 wherein the surfactant is an amphoteric imidazoline-derived dipropionate.

#### Remarks

Claims 1 to 99 remain pending.

Claims 1 to 6, 10 to 20, 25, 27, 90 to 93 and 95 to 99 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,122,043 to Kersnar et al. (the Kersnar Patent). The Kersnar patent is said to disclose aqueous detergent compositions having zwitterionic or amphoteric surfactants, organic or inorganic acids or their salts at the same concentrations disclosed by Applicants. The compositions were said to be inherently viscoelastic.

The rejection of claims 1 to 6, 10 to 20, 25, 27, and 95 to 99 under 35 U.S.C. 102(b) over the Kersnar Patent is not well taken. Independent claims 1, 31 and 63 require that the fluid be aqueous, viscoelastic, have a zwitterionic or amphoteric surfactant, and have a member selected from among organic acids/salts, inorganic salts, and combinations thereof. The Kersnar Patent does not disclose any compositions as being viscoelastic. Apart from not disclosing viscoelasticity, the Kersnar Patent does not teach any composition that has the remaining features of the independent claims. Namely, the Kersnar Patent does not teach any viscoelastic composition that is aqueous and has a zwitterionic surfactant and a delineated member. The Kersnar Patent discloses aqueous compositions at

col. 3, lines 63 to 65, but not any that have the delineated member. The Kersnar Patent discloses at col. 4, lines 20 to 35 that chelating or sequestering agents, such as the sodium EDTA, may be incorporated in some compositions (emphasis added in view of line 20). Thus, chelating or sequestering agents are not required. Claim 1 of the Kersnar Patent discloses a detergent having an amido betaine, a builder, a chelating or sequestering agent such as sodium EDTA, and optionally an optical brightener. However, the composition of Claim 1 of the Kersnar Patent is not indicated as aqueous in situ, and no particular concentration in wash water is specified. Typically, and as borne out by the examples in the Kersnar Patent, detergents are added to wash water at very high dilution to form solutions of very low detergent concentration. At very low surfactant concentrations, viscoelasticity is not observed. Elsewhere in the Office Action, Examples 4 and 6 of the Kersnar Patent are mentioned. Water solution "3" of Example 4 is non-viscoelastic in part because the salt, i.e., EDTA, content is too high. Composition "4" in Example 4 is non-aqueous, and, thus, cannot be viscoelastic. Use of the water solution 3 and composition 4 in wash loads as further described in Example 4 results in highly dilute wash water compositions in each instance. Each of the highly dilute wash water compositions is non-viscoelastic due to very low betaine concentration. As in the case of Example 4, the composition in Example 6 is also non-viscoelastic in part due to high salt content. The other examples and wash water compositions disclosed in the Kersnar Patent are likewise non-viscoelastic in part for low betaine concentrations and/or high salt concentrations and/or high ionic, i.e., NaOH, concentrations.

The rejection of claims 90 to 93 under 35 U.S.C. 102(b) over the Kersnar Patent is not well taken. Independent claim 90

*has not been anticipated by the Kersnar Patent*  
requires an amphoteric surfactant. As pointed out in the Declaration, the surfactants disclosed in the Kersnar Patent are not amphoteric according to the definition set forth in the specification at page 5, lines 22 to 29. Thus, claims 90 to 93 are not anticipated by the Kersnar Patent.

*topolubins are not disclosed in the Kersnar Patent*  
*a case of the Kersnar Patent*  
Claims 21 to 24 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Kersnar Patent. It was admitted that the amidobetaines in the examples of the Kersnar Patent did not correspond to those in claims 21 to 24. The amidobetaines in claims 21 to 24 were said to be obvious in view of the amidobetaines in examples 4 and 6 of the Kersnar Patent.

The rejection of claims 21 to 24 under 35 U.S.C. 103(a) over the Kersnar Patent is not well taken. As discussed above in the rejection of claims 1 to 6, 10 to 20, 25, 27, 90 to 93 and 95 to 99, the Kersnar Patent does not disclose the viscoelastic fluids of the claimed invention. Thus, any rejection of claims 21 to 24 as being further obvious in view of the Kersnar Patent is not tenable.

Claims 7 to 9, 28, 30, 31 to 48, 53, 55 to 79, 84 and 86 to 89 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Kersnar Patent in view of U.S. Patent No. 4,375,421 to Rubin et al. (the Rubin Patent). It was admitted that the Kersnar Patent did not disclose compositions containing an anionic surfactant. It was said to be obvious to incorporate an anionic surfactant at 0.25 wt% into the aqueous compositions of examples 4 and 6 to obtain increased thickening in view of the teachings of the Rubin Patent at col. 9, lines 10 to 20.

The rejection of claims 7 to 9, 28, 30, 31 to 48, 53, 55 to 79, 84 and 86 to 89 under 35 U.S.C. 103(a) over the Kersnar

Patent in view of the Rubin Patent is not well taken. As discussed above in the rejection of claims 1 to 6, 10 to 20, 25, 27, 90 to 93 and 95 to 99, the Kersnar Patent does not disclose the viscoelastic fluids of the present invention. Thus, any rejection of claims 7 to 9, 28, 30, 31 to 48, 53, 55 to 79, 84 and 86 to 89 as being further obvious in view of the combination of the Kersnar Patent and the Rubin Patent is not tenable.

Claims 49 to 52 and 80 to 83 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Kersnar Patent in view of the Rubin Patent. It was admitted that the Kersnar Patent did not disclose compositions containing an anionic surfactant. It was said to be obvious to incorporate an anionic surfactant at 0.25 wt% into the aqueous compositions of examples 4 and 6 to obtain increased thickening in view of the teachings of the Rubin Patent at col. 9, lines 10 to 20.

*See Kersnar Patent* *Ex. 4, 6*

The rejection of claims 49 to 52 and 80 to 83 under 35 U.S.C. 103(a) over the Kersnar Patent in view of the Rubin Patent is deemed improper. The statements in the Office Action supporting the rejection make no mention of nor relate the subject matter of claims 49 to 52 and 80 to 83 to the Kersnar Patent or the Rubin Patent. Claims 49 to 52 and 80 to 83 identify groups corresponding to substituents R, R<sub>1</sub>, R<sub>2</sub>, and R<sub>3</sub>. No statements in the Office Action relate those substituents to teachings in either the Kersnar Patent or the Rubin Patent. Thus, response to the rejection is not possible.

Claims 1 to 99 have been rejected under the judicially created doctrine of obviousness double patenting as being unpatentable in view of U.S. Patent No. 6,258,859. Claims 1 to 99 were said to not be patentably distinct from those of U.S. Patent No. 6,258,859.

The rejection of claims 1 to 99 for obviousness double patenting is traversed in view of the enclosed terminal disclaimer.


Claim 29 has been rejected under 35 U.S.C. 112, first paragraph, as being containing subject matter not described in the specification in such a way as to convey that the inventors had possession of the invention at the time of filing. The expression "the zwitterionic surfactant being present at 89% or more by weight of the fluid" was said to lack antecedent basis and support in the specification and was considered new matter.

The rejection of claim 29 under 35 U.S.C. 112, first paragraph, is not well taken because there is basis in the specification for the expression "the zwitterionic surfactant being present at 89% or more by weight of the fluid." As pointed out in the Preliminary Amendment submitted with the present application, the zwitterionic surfactant is present at 89% by weight in Example 8 and 92% by weight in Example 7.

Claims 16, 48, 77, 83 and 96 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Claim 16 is said to have an improper dependency. Claims 48 and 77 are said to have punctuation errors. Claim 83 is said to recite a "Q" instead of an "A." Claims 82 and 83 are said to be improper dependent claims. Claim 96 is said to recite an improper Markush group.

The rejection of claims 16, 48, 77, 83 and 96 under 35 U.S.C. 112, second paragraph, is traversed in view of the amendments entered in those claims.

The specification has been objected to at page 3, line 2.  
The term "FIGURES" should be changed to "DRAWINGS."

The objection to the specification is not understood since the term "FIGURES" is not present at page 3, line 2.<sup>0</sup>  
Clarification is requested. <sup>A</sup>

Applicants are also asked to change the status of the parent application (now U.S. Patent No. 6,258,859) at page 1 of the specification.

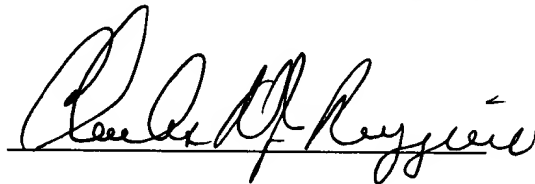
The status of the parent application has been changed in the specification at page 1 per the Office Action.

A Declaration Under 37 C.F.R. 1.132 by co-inventor Manilal Dahanayake is attached herewith.

The claims and specification also appear in the attachment referred to as VERSION WITH MARKINGS TO SHOW CHANGES MADE.

Reconsideration of claims 1 to 99 is deemed warranted in view of the foregoing, and allowance of said claims is earnestly solicited.

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In the Specification

The specification has been amended at page 1, lines 6 to 10 according to the following:

This application is a continuation application of U.S. Serial No. 09/093,131, filed June 8, 1998 and issued as U.S. Patent No. 6,258,859 B1, which claims the benefits of the disclosure of U.S. Provisional Patent Application Serial Nos. 60/049,045, filed on June 10, 1997, and 60/054,455, filed on August 5, 1997. The disclosure of U.S. Serial No. 09/093,131, filed June 8, 1998, is incorporated herein by reference.

In the Claims

The claims have been amended according to the following:

12. (Once amended) The fluid of claim 1 wherein the member is an organic salt and is present at about 0.1% to about [30%] 10% by weight.
16. (Once amended) The fluid of claim [15] 14 wherein R<sub>1</sub> is an alkyl group derived from tallow, coco, soya bean, or rapeseed oil.
40. (Once amended) The fluid of claim 31 wherein the member is an organic salt and is present at about 0.1% to about [30%] 10% by weight.
48. (Once amended) The fluid of claim 42 wherein R<sub>4</sub> is methylene or ethylene.

71. (Once amended) The fluid of claim 63 wherein the member is an organic salt and is present at about 0.1% to about [30%] 10% by weight.

77. (Once amended) The fluid of claim 73 wherein  $R_2$  [and.] and  $R_3$  are, independently, alkyl, alkenyl, arylalkyl, hydroxyalkyl carboxyalkyl, or hydroxyalkylpolyoxyalkylene, each having about 1 to about 10 carbon atoms.

82. (Once amended) The fluid of claim [81] 73 wherein  $R_2$  and  $R_3$  are each methyl.

83. (Once amended) The fluid of claim [82] 73 wherein  $R_1$  is  $RCONHCH_2CH_2CH_2-$  wherein R is an alkyl group having from about 14 to about 24 carbon atoms which may be branched or straight chained and which may be saturated or unsaturated.

92. (Once amended) The fluid of claim 90 wherein the member is an organic salt and is present at about 0.1% to about [30%] 10% by weight.

96. (Once amended) The fluid of claim 90 wherein the surfactant is [selected from among] an amphoteric imidazoline-derived [dipropionates] dipropionate.